# IN THE MISSOURI COURT OF APPEALS WESTERN DISTRICT

#### COMPLETE TITLE OF CASE

EDUARDO J. CHACON,

Appellant,

v.

STATE OF MISSOURI,

Respondent.

#### **DOCKET NUMBER WD**75646

### MISSOURI COURT OF APPEALS WESTERN DISTRICT

**DATE:** September 24, 2013

#### APPEAL FROM

The Circuit Court of Lafayette County, Missouri The Honorable Dennis A. Rolf, Judge

#### **JUDGES**

Division Two: Newton, P.J., and Mitchell and Witt, JJ.

CONCURRING.

#### **ATTORNEYS**

Craig A. Johnston, Assistant Public Defender Columbia, MO

Attorney for Appellant,

Chris Koster, Attorney General Evan J. Buchheim, Assistant Attorney General Jefferson City, MO

Attorneys for Respondent.



## MISSOURI APPELLATE COURT OPINION SUMMARY MISSOURI COURT OF APPEALS, WESTERN DISTRICT

| EDUARDO J. CHACON, |             | ) |                                      |
|--------------------|-------------|---|--------------------------------------|
|                    | Appellant,  | ) |                                      |
| v.                 |             | ) | OPINION FILED:<br>September 24, 2013 |
| STATE OF MISSOURI, |             | ) | 5eptember 24, 2015                   |
|                    | Respondent. | ) |                                      |

WD75646 Lafayette County

Before Division Two Judges: Thomas H. Newton, Presiding Judge, and Karen King

Mitchell and Gary D. Witt, Judges

Eduardo J. Chacon appeals the denial, following an evidentiary hearing, of his Rule 24.035 motion for post-conviction relief. Chacon argues that the motion court clearly erred in denying his motion because his attorney was ineffective in that he unreasonably failed to inform Chacon that he would be deported if he pled guilty to cocaine possession and forgery. Chacon asserts that had he been informed that either of these offenses required deportation, he would not have pled guilty.

#### AFFIRMED.

#### **Division Two holds:**

The landscape of ineffective assistance claims changed considerably with the United States Supreme Court's decision in *Padilla v. Kentucky*, 559 U.S. 356 (2010). All defense attorneys are now required to advise criminal defendants about the risk of deportation arising from a guilty plea. Chacon pled guilty to cocaine possession and forgery; immigration law is clear that these convictions made Chacon deportable and that his deportation was presumptively mandatory. Chacon's defense counsel advised him that: "if he pled guilty to the charges, he would very likely be deported and wouldn't be able to come back." Under the circumstances, the motion court did not clearly err when it found that this advice did not fall below what is required of a reasonably competent attorney. *Padilla* does not require that plea counsel use specific words to communicate to a defendant the consequences of entering a guilty plea.

Rather, it requires that counsel *correctly* advise his client of the *risk* of deportation so that the plea is knowing and voluntary. Here, defense counsel's advice satisfied the requirement set forth in *Padilla*, and, therefore, Chacon was not denied effective assistance of counsel. We affirm the judgment of the motion court denying Chacon's Rule 24.035 motion for post-conviction relief.

Opinion by: Karen King Mitchell, Judge

September 24, 2013

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